

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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2006 APR 13 P 12:47

MAKSIM LUTSKOV, Petitioner.)	1:04-cv-12601-PBS
)	
)	
v.)	MOTION TO REOPEN CASE
)	
LOIS RUSSO,)	
SUPERINTENDENT OF)	
SOUZA-BARONOWSKI)	
CORRECTIONAL CENTER)	
)	

Now comes the Petitioner, Maksim Lutskov, and hereby moves to reopen his Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus, and to obtain a ruling on said petition, on the grounds that it appears an error has been made in closing this case before a ruling has issued.

As reasons therefor, on February 14, 2005, Respondent Lois Russo filed a Motion to Dismiss Petition for Writ of Habeas Corpus. On February 25, 2005, Petitioner filed a Motion to Amend Petition for Writ of Habeas Corpus to Strike Issue III (of three issues raised in the Petition), and Petitioner's Response to Respondent's Motion to Dismiss Petition for Writ of Habeas Corpus. On February 28, 2005, Petitioner filed his Brief in Support of Petition for Writ of Habeas Corpus (focusing on the two remaining issues raised in his Petition).

On March 9, 2005, Judge Patti B. Saris entered an order granting Petitioner's Motion to Amend Petition for Writ of Habeas Corpus to Strike Issue III. This left only two issues (Issues I & II of the Petition) to be decided. Accordingly, on April 15, 2005, respondent Lois Russo filed her Memorandum of Law, and on April 25, 2005, Judge Saris referred the case to

Magistrate Judge Robert B. Collings for Report and Recommendation on 2254 Petition for Writ of Habeas Corpus.

On September 16, 2005, the following was entered on the docket of this case:

Judge Patti B. Saris : Electronic ORDER entered finding as moot 6 Motion to Dismiss. "Because petitioner withdrew the unexhausted claim, the motion to dismiss is moot." (Patch, Christine).

This order found Respondent's Motion to Dismiss moot because Issue III (an unexhausted claim) was withdrawn by the Petitioner in his Motion to Amend Petition (which was granted on March 9, 2005). However, two issues (Issues I and II of Petitioner's Petition) remain to be decided.

Inexplicably, also on September 16, 2005, the following was entered on the docket:

09/16/2005 Civil Case Terminated. (Patch, Christine).

Counsel for Petitioner never received notice of this final entry, which terminated the civil case.

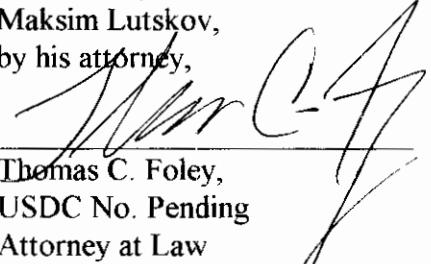
Petitioner submits that the September 16, 2005 entry on the docket terminating the civil case was entered in error, as two issues (Issues I & II) of Petitioner's Petition remain to be decided.

CONCLUSION

Accordingly, Petitioner respectfully requests that the civil case be reopened, and that a decision be entered on the two issues (Issues I & II) remaining to be decided in his Petition.

Respectfully submitted,

Maksim Lutskov,
by his attorney,

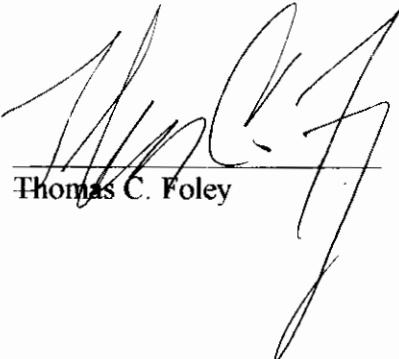

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April 10, 2006

CERTIFICATE OF SERVICE

I, Thomas C. Foley, hereby certify that true copies of the Petitioner's Motion to reopen Case was served on the following counsel by U.S. mail on April 10, 2006:

Maura D. McLaughlin
Assistant Attorney General
Office of the Attorney General
One Ashburton Place
Boston, MA 02108-1598


Thomas C. Foley